

Introduced by Senator Kehoe
(Principal coauthor: Assembly Member Fuentes)

February 24, 2012

An act to amend Sections 906, 965, and 965.5 of the Government Code, relating to governmental liability.

LEGISLATIVE COUNSEL'S DIGEST

SB 1504, as introduced, Kehoe. Claims and judgments against the state: interest.

(1) Existing law bars a suit for money or damages against a public entity on a cause of action for which a claim is required to be presented, until a written claim has been presented to the public entity and acted upon by the Victim Compensation and Government Claims Board, the governing body of a local public entity, the Judicial Council, or the Trustees of the California State University, as applicable, or has been deemed to have been rejected, except as specified. Existing law provides that no interest is payable on the amount allowed by the public entity on the claim if payment of the claim is subject to approval of an appropriation by the Legislature. However, if the appropriation is made, interest on the amount appropriated for the payment of the claim commences to accrue 30 days after the effective date of the law by which the appropriation is enacted. Interest on the amount allowed on the claim, if payment of the claim is not subject to approval of an appropriation by the Legislature, commences to accrue 30 days after the claimant accepts in writing the amount allowed on the claim in settlement of the entire claim. Existing law provides that interest accrues at the rate provided for judgments until paid. Existing law permits these terms to be varied upon written agreement of the public entity and the claimant.

This bill, instead, would provide that no interest is payable on the amount allowed by the California Victim Compensation and Government Claims Board on the claim if payment of the claim is subject to approval of an appropriation by the Legislature. If the Legislature fails to approve an appropriation for payment of a claim, interest would accrue on the amount allowed by the board on the claim at no more than the average Pooled Money Investment Account rate for the previous fiscal year, but no more than 5% per annum, commencing one year from the date the claim was submitted by the board to the Legislature. The bill would delete the above-described provisions requiring the accrual of interest on the amount appropriated for the payment of a claim and on a claim that is not subject to approval of an appropriation by the Legislature, setting the rate of interest, and authorizing these terms to be varied by written agreement.

(2) Under existing law, if there is no sufficient appropriation for the payment of claims, settlements, or judgments against the state arising from an action in which the state is represented by the Attorney General, the Attorney General is required to report the claims, settlements, and judgments to the chairperson of either the Senate Committee on Appropriations or the Assembly Committee on Budget, who shall cause to be introduced legislation appropriating funds for the payment of the claims, settlements, or judgments.

This bill would require that report to be made to the chairperson of either the Senate Committee on Appropriations or the Assembly Committee on Appropriations. The bill would make other conforming changes.

(3) The California Constitution requires the Legislature to set the rate of interest upon a judgment rendered in any court of this state at not more than 10% per annum. Existing law provides that interest accrues at the rate of 10% per annum on the principal amount of a money judgment remaining unsatisfied. Under existing law, this provision does not apply to a judgment for the payment of money against the state. In the absence of the setting of such a rate by the Legislature, the California Constitution provides that the rate of interest on any judgment rendered in a court is 7% per annum.

This bill would provide that interest shall accrue on the amount of a judgment or settlement for the payment of money against the state at no more than the average Pooled Money Investment Account rate for the previous fiscal year, but no more than 5% per annum, commencing one year from the date of the final judgment or settlement.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 906 of the Government Code is amended
to read:

906. (a) As used in this section, “amount allowed on the claim” means the amount allowed by the ~~public entity~~ *California Victim Compensation and Government Claims Board* on a claim allowed, in whole or in part, or the amount offered by the ~~public entity board~~ to settle or compromise a claim.

~~(b) Except as provided in subdivision (c):~~

~~(1) No~~

~~(b) No interest is payable on the amount allowed on the claim if payment of the claim is subject to approval of an appropriation by the Legislature; but, if an appropriation is made for the payment of a claim described in this paragraph, interest on the amount appropriated for the payment of the claim commences to accrue 30 days after the effective date of the law by which the appropriation is enacted. If the Legislature fails to approve an appropriation for payment of a claim, interest shall accrue on the amount allowed on the claim at no more than the average Pooled Money Investment Account rate for the previous fiscal year, but no more than 5 percent per annum, commencing one year from the date the claim was submitted by the board to the Legislature.~~

~~(2) Interest on the amount allowed on the claim, other than a claim described in paragraph (1), commences to accrue 30 days after the claimant accepts in writing the amount allowed on the claim in settlement of the entire claim.~~

~~(3) Interest on the amount allowed on the claim accrues at the rate provided for judgments until paid.~~

~~(c) The public entity and the claimant may agree in writing to vary the terms prescribed by subdivision (b), including but not limited to, any one or more of the following:~~

~~(1) An agreement that no interest will be payable on the amount allowed on the claim.~~

~~(2) An agreement that interest on the amount allowed on the claim will commence to accrue at a time other than the time specified in paragraph (1) or (2) of subdivision (b).~~

1 ~~(3) An agreement that interest on the amount allowed on the~~
2 ~~claim will accrue at a different rate than is specified in paragraph~~
3 ~~(3) of subdivision (b).~~

4 ~~(d) The public entity may allow a claim in whole or in part, or~~
5 ~~may offer to settle or compromise a claim, upon the condition that~~
6 ~~the claimant agree in writing to a provision that varies the terms~~
7 ~~prescribed in subdivision (b). The acceptance by the claimant in~~
8 ~~writing of the amount allowed on the claim in settlement of the~~
9 ~~entire claim subject to such condition creates a written agreement~~
10 ~~that satisfies the requirements of subdivision (e).~~

11 ~~(e) Nothing in this section limits the rights of a claimant to~~
12 ~~interest on a judgment obtained against a public entity.~~

13 SEC. 2. Section 965 of the Government Code is amended to
14 read:

15 965. (a) Upon the allowance by the California Victim
16 Compensation and Government Claims Board of all or part of a
17 claim for which the Director of Finance certifies that a sufficient
18 appropriation for the payment of the claim exists, and the execution
19 and presentation of documents the board may require ~~which that~~
20 discharge the state of all liability under the claim, the board shall
21 designate the fund from which the claim is to be paid, and the state
22 agency concerned shall pay the claim from that fund. If there is
23 no sufficient appropriation for the payment available, the board
24 shall report to the Legislature in accordance with Section 912.8.
25 Claims arising out of the activities of the State Department of
26 Transportation may be paid if either the Director of Transportation
27 or the Director of Finance certifies that a sufficient appropriation
28 for the payment of the claim exists.

29 (b) Notwithstanding subdivision (a), if there is no sufficient
30 appropriation for the payment of claims, settlements, or judgments
31 against the state arising from an action in which the state is
32 represented by the Attorney General, the Attorney General shall
33 report the claims, settlements, and judgments to the Chairperson
34 of either the Senate Committee on Appropriations or the Assembly
35 Committee on ~~Budget Appropriations~~, who shall cause to be
36 introduced legislation appropriating funds for the payment of the
37 claims, settlements, or judgments.

38 (c) Notwithstanding subdivision (a) or (b), claims, settlements,
39 or judgments arising out of the activities of a judicial branch entity,
40 as defined by Sections 900.3 and 940.3, or a judge thereof may be

1 paid if the Judicial Council authorizes payment and the
2 Administrative Director of the Courts certifies that sufficient funds
3 for that payment exist from funds allocated to settlement,
4 adjustment, and compromise of actions and claims. If sufficient
5 funds for payment of settlements or judgments do not exist, the
6 Administrative Director of the Courts shall report the settlements
7 and judgments to the Chairperson of either the Senate Committee
8 on Appropriations or the Assembly Committee on ~~Budget~~
9 *Appropriations*, who shall cause to be introduced legislation
10 appropriating funds for the payment of the settlements or
11 judgments. If sufficient funds for payment of claims do not exist,
12 the Administrative Director of the Courts shall report the claims
13 to the California Victim Compensation and Government Claims
14 Board, which shall have 90 days to object to payment. The
15 Administrative Director of the Courts shall confer with the
16 chairperson of the California Victim Compensation and
17 Government Claims Board regarding any objection received during
18 the 90-day period. If the California Victim Compensation and
19 Government Claims Board withdraws the objection, or if no
20 objection was received, the Administrative Director of the Courts
21 shall report the claims to the Chairperson of either the Senate
22 Committee on Appropriations or the Assembly Committee on ~~the~~
23 ~~Budget~~ *Appropriations*, who shall cause to be introduced legislation
24 appropriating funds for the payment of the claims. The Judicial
25 Council may authorize any committee of the Judicial Council or
26 any employee of the Administrative Office of the Courts to perform
27 the functions of the Judicial Council under this section. The
28 Administrative Director of the Courts may designate an executive
29 staff member of the Administrative Office of the Courts to perform
30 the functions of the Administrative Director of the Courts under
31 this section.

32 SEC. 3. Section 965.5 of the Government Code is amended to
33 read:

34 965.5. (a) A judgment for the payment of money against the
35 state or a state agency is enforceable until 10 years after the time
36 the judgment becomes final or, if the judgment is payable in
37 installments, until 10 years after the final installment becomes due.

38 (b) A judgment for the payment of money against the state or
39 a state agency is not enforceable under Title 9 (commencing with

1 Section 680.010) of Part 2 of the Code of Civil Procedure, but is
2 enforceable under this chapter.

3 *(c) Interest shall accrue on the amount of a judgment or*
4 *settlement for the payment of money against the state at no more*
5 *than the average Pooled Money Investment Account rate for the*
6 *previous fiscal year, but no more than 5 percent per annum,*
7 *commencing one year from the date of the final judgment or*
8 *settlement. This subdivision does not apply to any claim approved*
9 *by the California Victim Compensation and Government Claims*
10 *Board.*